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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,402	05/08/2001	Joe F. Britt JR.	14531.5.1.5	1907
22913	7590	01/13/2006	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			SAX, STEVEN PAUL	
			ART UNIT	PAPER NUMBER
			2174	
DATE MAILED: 01/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/851,402

Applicant(s)

BRITT ET AL

Examiner

Steven P. Sax

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/14/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This application has been examined. The Amendment filed 10/14/05 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalluri et al (5937331) and Winkel (6151709) and Logan et al (5802299) and Chess et al (5802592).

4. Regarding claim 1, Kalluri et al show a client system with computer and program instructions communicating with a server (Abstract, Figure 1, column 2 lines 25-40), a method of restoring a corrupted portion of program instructions at the client (column 5 lines 25-45) including: checking the validity of system program instructions and application program instructions at the client to determine if a corrupted portion exists (column 6 lines 18-47), and upon determining that either have a corrupted portion, receiving replacement instructions for the corrupted portion from the server (column 5 lines 30-45, column 6 lines 20-50), and replacing the corrupted portion with

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the replacement instructions (column 9 lines 25-55). Kalluri et al do not go into the details of the connecting to the server upon making the determination that a corrupted portion exists, but do mention efficiently providing a way to obtain replacement instructions. Furthermore, Winkel do show connecting to the server to retrieve replacement instructions when a corrupted portion is determined (Figures 2 and 4, column 2 lines 10-19, column 3 lines 5-23 and 29-40, column 4 lines 19-36 and 53-64) to efficiently obtain replacement instructions. It would have been obvious to a person with ordinary skill in the art to have Kalluri et al connect to the server upon making the determination that a corrupted portion exists, to efficiently providing a way to obtain replacement instructions. The process in Winkel may not be automatic, but a user may initiate the connection in order to update and replace an observed change in the data. Logan et al however do show an automatic connection to a server to update and replace if necessary data when a change is observed in the data (Figure 9, column 2 lines 10-35, column 5 lines 10-49, column 10 lines 15-59). It would have been obvious to a person with ordinary skill in the art to have this automatic connection in tandem with the replacement instruction process of Winkel, in the system of Kalluri et al, because it would provide an efficient way to update and replace (corrupted) data when a change (such as caused by a corruption) is observed. Kalluri et al do not go into the specific details of the instructions being in an actual program which is replaced per se, but do show correction of instructions with programs (column 8 lines 52-67). Furthermore, Chess et al show replacing an actual program if it is corrupted, to correct instructions (column 3 lines 30-50). It would have been obvious to a person with ordinary skill in the

art to have an actual program replaced in Kalluri et al, because it would be an efficient way to correct instructions.

5. Regarding claim 2, validity check uses a checksum technique (Kalluri et al Figure 4, column 7 lines 10-20).

6. Regarding claim 3, the act of connecting the client to the server includes selecting a local connection script associated with the server (Winkel column 5 lines 5-20 which is part of the process of connecting to the server which is obvious to combine into Kalluri et al as explained in paragraph 4 of this Office Action).

7. Regarding claim 4, a default connection script is read from the memory of the client to connect to a remote computer and the selected local script is downloaded (Winkel column 5 lines 10-25 which is part of the process of connecting to the server which is obvious to combine into Kalluri et al as explained in paragraph 4 of this Office Action).

8. Regarding claim 5, the replacement instructions are automatically (without user intervention) requested and received (Kalluri et al column 9 lines 20-49). Given then obviousness to have the connection to the server, this would thus happen after the connection is made.

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9. Regarding claim 6, the replacement instructions are received through a satellite link (Kalluri et al column 5 lines 5-25).

10. Regarding claim 7, the replacement instructions are written to a random access memory, decompressed, and written to a flash memory of the client (Kalluri et al column 7 lines 20-49).

11. Regarding claim 11, validity is checked during initialization (Kalluri et al column 6 lines 18-47).

12. Claims 12-13 show the same features as claims 1-2 respectively and are rejected for the same reasons.

13. Claim 14 shows the same features as claim 7 and is rejected for the same reasons.

14. Regarding claim 15, an example of this is checking validity upon an initialization sequence, and thus this is rejected for the same reasons as claim 12.

15. Claims 16-17 are rejected for the same reasons as claims 1-2. In addition, note that the portion being represented as a block is inherent.

16. Claims 19-20 are rejected for the same reasons as claims 6-7.
17. Claim 21 shows the same features as claim 6 and is rejected for the same reasons.
18. Regarding claim 22, checking validity comprises identifying specific addresses associated with the identified corrupted blocks (Kalluri et al column 6 lines 25-50).
19. Claim 23 is rejected for the same reasons as claim 7.
20. Claim 24 is rejected for the same reasons as claim 5.
21. Claims 25-26 are rejected for the same reasons as claims 16-17.
22. Claim 27 is rejected for the same reasons as claim 23 (and claim 7).
23. Claim 28 is rejected for the same reasons as claim 15.
24. Claim 29 is rejected for the same reasons as claim 22.

25. Regarding claims 8 and 18, the connection in Logan et al shows receiving validity instructions over the Internet as a useful network (column 5 lines 1-10). The obviousness to have this follows the same reasoning as explained in paragraph 4 of this Office Action.

26. Regarding claim 9, Logan et al do show the browser for presenting data at the client (figure 2, column 4 lines 45-65). This is part of the system which is obvious to combine in the system of Kalluri et al with Winkel as explained in paragraph 4 of this Office Action.

27. Regarding claim 10, Kalluri et al do not specifically show the Java applet, but Examiner takes Official Notice that it is common in the art to use Java applets to transmit instructions over a network. Kalluri et al shows transmitting instructions over the network. It would have been obvious to a person with ordinary skill in the art to use Java applets in Kalluri et al because it would be an efficient way to transmit instructions over the network.

28. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicants focus on the automatic connection but note that the Winkel and Kalluri references do not teach away from the automatic connection, but support the obviousness to combine Logan's automatic connection ability.



29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

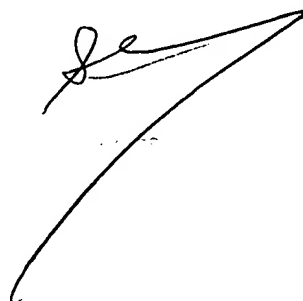
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P. Sax whose telephone number is (571) 272-4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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